

Message Text

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ACTION OES-04

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INFO USAEC GERMANTOWN MD

C O N F I D E N T I A L SECTION 1 OF 2 OTTAWA 0130

E.O. 11652: GDS

TAGS: TECH, CA

SUBJ: REQUEST FOR COMMENT ON 10 CFR PART 73

REF: STATE 266834; OTTAWA 3990

1. BEGIN SUMMARY: IN RESPONSE TO REQUEST FOR COMMENTS
CONTAINED IN STATE REFTEL, CANADIAN OFFICIALS RESPONSIBLE
FOR NUCLEAR MATERIALS AND EQUIPMENT SECURITY HAVE REVIEWED
10 CFR PART 73. THEY SUGGEST THAT CANADIAN-AMERICAN NUCLEAR
RELATIONS ARE SUFFICIENTLY ACTIVE TO WARRANT CONSIDERATION
OF A DETAILED OPERATIONAL MEMORANDUM OF UNDERSTANDING TO
HANDLE THE UNIQUE PROBLEMS POSED BY THE U.S.-CANADIAN
BORDER. A NUMBER OF GENERAL SUGGESTIONS HAVE ALSO BEEN MADE
IN THE SPIRIT OF ITEMS FOR FUTURE DISCUSSION AND
CONSIDERATION IN THE COURSE OF DEVELOPING THE BEST PRAC-
TICABLE PROCEDURES FOR NUCLEAR MATERIALS AND EQUIPMENT
SECURITY. END SUMMARY.

2. SCICOUNS MET WITH RESPONSIBLE ATOMIC ENERGY CONTROL
BOARD (AECB) AND ROYAL CANADIAN MOUNTED POLICE (RCMP)
OFFICIALS JANUARY 10 TO SECURE CANADIAN COMMENTS REGARDING
10 CFR PART 73 PER REFTELS. CANADIAN RESPONSE DIVIDES INTO
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TWO MAJOR PARTS, ONE DEALING WITH PRACTICAL OPERATIONAL

INTERFACE CONSIDERATIONS AND THE OTHER DEALING WITH GENERAL OBSERVATIONS WHICH CANADIAN OFFICIALS HOPE WILL BE HELPFUL IN VIEW OF EARLY STATE OF DEVELOPMENT OF THIS TYPE OF SECURITY PROBLEM. AT THIS STAGE ALL COMMENTS SHOULD BE CONSIDERED CONFIDENTIAL AND SUBJECT TO FURTHER EVOLUTION AS PLANNED AMERICAN-CANADIAN COOPERATION IN THIS AREA PROGRESSES.

3. OPERATIONAL INTERFACE.

A. GIVEN EXTENT AND NATURE OF U.S.-CANADIAN BORDER IN COMBINATION WITH NORMAL NUCLEAR MATERIALS TRAFFIC AND THE POTENTIAL WHICH THE BORDER OFFERS FOR ABNORMAL INCIDENTS, CANADIANS FORESEE POSSIBLE NEED FOR A SPECIFIC MEMORANDUM OF UNDERSTANDING REGARDING OPERATIONAL DETAILS. NEITHER THE AECD NOR THE RCMP FORSEE UNUSUAL DIFFICULTIES IN PART 73 AS LONG AS THERE IS COMPLETE GOVERNMENTAL UNDERSTANDING ON EXACTLY HOW SOMETIMES TRIVIAL BUT OFTEN NETTLESOME DETAILS ARE TO BE HANDLED.

B. CANADIANS WOULD BE PREPARED TO APPROACH THE FORMULATION OF SUCH A MEMORANDUM OF UNDERSTANDING WITH ONLY A FEW REQUIREMENTS. THESE WOULD INCLUDE PRINCIPLE OF FULL RECIPROCITY IN ANY OPERATIONAL ARRANGEMENTS, PROCEDURES FOR CLOSE COOPERATION AND LIAISON EXPLICITLY ESTABLISHED TO HANDLE BOTH ROUTINE AND EMERGENCY SITUATIONS AND EITHER AS A PART OF SUCH A MEMORANDUM OF UNDERSTANDING OR SEPARATELY AN AGREEMENT TO CONTINUE CLOSE PROGRAMMATIC AND POLICY COORDINATION AND CONSULTATION.

C. CANADIANS WOULD BE PREPARED TO CONSIDER FIRST DRAFT OF APPROPRIATE OPERATIONAL UNDERSTANDING AT PROPOSED MID-SUMMER MEETING BETWEEN RESPONSIBLE AMERICAN AND CANADIAN SECURITY OFFICIALS TENTATIVELY SCHEDULED FOR OTTAWA.

D. CONSENSUS OF MEETING WAS THAT OPERATIONAL AGREEMENT COULD WELL INVOLVE SO MANY DETAILS, E.G., WHERE DO GUARDS CHECK WEAPONS, WHEN DOES CUSTODIAL RESPONSIBILITY PHYSICALLY CHANGE FROM ONE COUNTRY TO THE OTHER, ETC., THAT IT MIGHT BE WELL FOR INITIALLY-AGREED-TO OPERATIONAL UNDERSTANDING TO BE CONFIDENTIAL

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BE MADE SUBJECT TO FULL-SCALE POLICY REVIEW AFTER FIRST YEAR OR 18 MONTHS OF OPERATION.

E. WITH RESPECT TO PART 73 SPECIFICALLY, CANADIANS THEREFORE WOULD HOPE THAT REGULATION FINALLY ADOPTED WOULD PROVIDE RESPONSIBLE U.S. OFFICIALS WITH SUFFICIENT AUTHORITY AND FLEXIBILITY TO ESTABLISH APPROPRIATE OPERATIONAL PROCEDURES INDIVIDUALLY TAILORED TO UNIQUE U.S.-CANADIAN SITUATION.

4. GENERAL COMMENTS: THE FOLLOWING WERE SUGGESTED FOR CONSIDERATION AND POSSIBLE SUBSEQUENT BILATERAL DISCUSSION IN THE CONTEXT OF PROVIDING AMERICAN OFFICIALS WITH AN INSIGHT INTO CURRENT CANADIAN THINKING AND AS POSSIBLE POINTS OF DEPARTURE FOR EVOLVING THE MOST EFFECTIVE OVERALL SECURITY SYSTEM PRACTICABLE:

A. IN REVIEWING PART 73, CANADIAN OFFICIALS SUGGESTED THAT PERHAPS THE REGULATIONS MAY HAVE BEEN DRAFTED FROM THE POINT OF VIEW COMMONLY EMPLOYED TO ESTABLISH HEALTH AND SAFETY OR CONSTRUCTION CODES AND REGULATIONS AND THAT GIVEN THE NATURE OF THE PROBLEM, THIS MIGHT NOT BE A SUFFICIENTLY COMPREHENSIVE BASE UPON WHICH TO FORMULATE THE REGULATIONS. REGULATIONS IN THE NUCLEAR INDUSTRY HAVE EVOLVED MUCH AS CONSTRUCTION CODES AND NORMALLY DEAL WITH "THINGS" AND PROTECTING PEOPLE FROM DANGEROUS PROPERTIES WHICH THE "THINGS" MIGHT HAVE. (IN FACT, AECB INDICATED THAT THEY HAD FIRST BEGUN TO FORMULATE THEIR OWN PROPOSED REGULATIONS FROM VERY MUCH THIS POINT OF VIEW BECAUSE THAT HAS IN FACT BEEN THEIR BUSINESS.) IT IS SUGGESTED, HOWEVER, THAT THE SECURITY PROBLEM INTRODUCES AN ELEMENT OF ALMOST THE EXACT CONVERSE OF THIS PHILOSOPHY, I.E., A PRIMARY PURPOSE OF THE REGULATIONS IS TO PROVIDE PROTECTION FOR "THINGS" AGAINST DANGERS TO WHICH THEY ARE EXPOSED FROM PEOPLE. THE HUMAN IS CAPABLE OF INFINITELY MORE DIVERSE AND SUBTLER ACTIVITIES THAN MATERIAL OR EQUIPMENT PER SE, IT WOULD SEEM TO FOLLOW THAT ADEQUATE SECURITY REGULATIONS MUST PROVIDE THE MAXIMUM OF OPERATIONAL FLEXIBILITY. THIS BEING THE CASE, IT MAY BE DESIRABLE TO THINK MORE IN TERMS OF GUIDELINES RATHER THAN STANDARDS OR REGULATIONS AND PROVIDE FOR TIGHTER CONTROL OVER OPERATIONAL APPROVALS. THIS PHILOSOPHICAL OUTLOOK WILL BE FURTHER ILLUSTRATED
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IN A NUMBER OF SPECIFIC OBSERVATIONS WHICH FOLLOW.

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C O N F I D E N T I A L SECTION 2 OF 2 OTTAWA 0130

B. CANADIAN OPERATIONAL AND EXPERIMENTAL EXPERIENCE WITH SECURITY FENCING STRONGLY SUGGESTS THAT FENCING REQUIREMENTS SHOULD BE SUPPLEMENTED IN SENSITIVE AREAS WITH SUITABLE HIGH TECHNOLOGY INTRUSION ALARMS, AND THESE, IN TURN, BACKED UP BY SUITABLE FENCE-LINE PATROLS AND ADEQUATE RESPONSE FORCES IN THE EVENT OF A PERIMETER BREACH. IT HAS BEEN THEIR EXPERIENCE THAT FENCING PER SE, NO MATTER HOW ELABORATE OR EXPENSIVE, PROVIDE ONLY MINIMAL DEFENSE AGAINST DEDICATED ATTACKERS. IT IS, THEREFORE, PERHAPS MORE PRODUCTIVE TO THINK IN TERMS OF MULTIPLE PERIMETER EQUIREMENTS, STARTING WITH A SIMPLE FENCE AND SCALING UP TO THE MOST SOPHISTICATED SYSTEM AS THE VALUE AND VULNERABILITY OF THE MATERIAL TO BE PROTECTED INCREASES.

C. FORE AND AFT ESCORT REQUIREMENTS, PARTICULARLY ON LAND TRANSPORT, ARE ALSO SUBJECT TO SIMILAR RESERVATIONS. FOR EXAMPLE, IN CERTAIN TERRAIN, SUCH AS IN WESTERN CANADA OR THE U.S., ONLY ONE ESCORT VEHICLE WITH ADEQUATE AND SUFFICIENTLY ARMED GUARDS MIGHT BE REQUIRED. CONVERSELY, CONGESTED URBAN SITUATIONS MIGHT DICTATE NOT ONLY FORE-AND-AFT VEHICULAR ESCORTS BUT IN SOME CIRCUMSTANCES EVEN AIRCRAFT SURVEILLANCE OVER ALL THREE VEHICLES.
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D. CANADIANS FEEL THAT IN IMPORTANT PART OF ANY SECURITY PROCEDURES IS THE ABILITY TO DO FULL SURPRISE INSPECTIONS ON IN-PLACE SECURITY SYSTEMS AT ANY TIME OR PLACE. THIS CCOMPLIANCE ASPECT DID NOT APPEAR TO BE COVERED WITH DESIRABLE ADEQUACY IN PART 73 AS CURRENTLY DRAFTED.

E. IN APPROACHING PROBLEM OF SECURITY SYSTEMS, CANADIAN

OFFICIALS ARE CURRENTLY PLANNING TO PROVIDE EXPERT GUIDANCE TO COMPANIES OR ORGANIZATIONS WHICH MAY HAVE TO DESIGN AND IMPLEMENT THE SECURITY SYSTEMS. THEY HOPE THIS ENTRY INTO THE PLANNING PHASE WILL PROVIDE THEM WITH AN OPPORTUNITY TO ASSURE THAT ADEQUATE SYSTEMS ARE DESIGNED FOR THE SITUATION WHICH MUST BE FACED AT ANY INDIVIDUAL PLANT OR IN TRANSFERS. THE FLEXIBILITY WHICH THEY HOPE TO PROVIDE IN THEIR SYSTEM WILL BE DISCIPLINED BY THREE FACTORS: (1) ADVISE IN DESIGNING SYSTEM AT THE BEGINNING, (2) THE RIGHT OF SURPRISE INSPECTION, AND (3) THE RIGHT OF ABSOLUTE FINAL APPROVAL OF ANY SYSTEM.

F. ASIDE FROM NORMAL ACCIDENTS OR OVERT TERRORIST ATTACK, THE NATURE OF NUCLEAR MATERIAL AND EQUIPMENT MAKES IT UNUSUALLY SUSCEPTIBLE TO COMPROMISE OR THEFT AS AN "INSIDE JOB." IN THE VIEW OF CANADIAN OFFICIALS, IT, THEREFORE, BECOMES MOST IMPORTANT TO HAVE AN APPROPRIATE METHOD FOR CONSTANTLY MONITORING THE NORMAL SECURITY FORCES AND SYSTEM WHICH ARE PUT IN PLACE TO PROTECT THE MATERIAL OR EQUIPMENT. PART 73 DOES NOT SUGGEST SUCH A REQUIREMENT ON THE PART OF THE LICENSEE. CANADIAN OFFICIALS WOULD BE INTERESTED IN KNOWING IF IT IS PLANNED FOR THIS FUNCTION TO BE CARRIED OUT BY EXISTING GOVERNMENT ORGANIZATIONS BY AN INTERNAL SECURITY FORCE ANSWERING TO THE AEC, BY LICENSEES OR BY A COMBINATION OF ALL THREE.

G. PART 73, AS RECEIVED, DOES NOT MENTION EXPLICITLY LIAISON WITH CRIMINAL AND INTERNATIONAL INTELLIGENCE FORCES NOR DOES IT APPEAR TO MAKE PROVISION FOR PROMPT TIGHTENING OF SECURITY IN THE EVENT THAT INTELLIGENCE INFORMATION SHOULD REVEAL THAT A PARTICULAR PLANT OR SHIPMENT HAS BEEN TARGETED BY CRIMINAL OR OTHER SUBVERSIVE ELEMENTS. IN DEVELOPING THEIR OWN PROGRAM, CANADIAN OFFICIALS
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PLANT TO ESTABLISH CLOSE LIAISON WITH EXISTING SECURITY FORCES AND CAN FORESEE SITUATIONS IN WHICH EFFECTIVE CLEAR CHANNELS OF COMMUNICATION SHOULD BE ESTABLISHED FOR THIS PURPOSE BETWEEN CANADIAN AND AMERICAN COUNTERPART ORGANIZATIONS.

H. PART 73, AS RECEIVED, DOES NOT INDICATE EXPLICITLY THE DEGREE OF RELIANCE WHICH WILL BE PLACED ON LOCAL, STATE AND NATIONAL LAW ENFORCEMENT AGENCIES. IN DEVELOPING THEIR SYSTEM, CANADIANS HOPE TO MAKE MAXIMUM USE OF EXISTING LAW ENFORCEMENT AGENCIES, ALTHOUGH THEY RECOGNIZE THAT FOR CERTAIN PURPOSES THERE IS LITTLE ALTERNATIVE TO LOCALLY EMPLOYED GUARDS. THIS APPROACH IS BASED ON THE PREMISE THAT ACTIVE LAW ENFORCEMENT OFFICERS WHO ARE DEALING WITH DANGEROUS SITUATIONS DAILY ARE GENERALLY BETTER TRAINED AND BETTER ABLE TO RESPOND TO AN EMERGENCY SITUATION THAN A GUARD WHO

MAY NEVER DRAW HIS WEAPON EXPECT FOR PRACTICE ON A FIRING RANGE. THIS SAME CONSIDERATION APPLIES TO THE EFFICACY OF ESCORT FORCES. IN MOST CASES AND CERTAINLY IN THOSE CASES WHERE THE SENSITIVITY OF THE SHIPMENT OR THE NATURE OF THE ROUTE TO BE TRAVERSED REALLY REQUIRES TRAINED SURVEILLANCE TEAMS, VERY FEW PRIVATE GUARD SERVICES COULD PROVIDE THE KIND OF ESCORT SURVEILLANCE FOR WHICH THE TORONTO RCMP SURVEILLANCE SQUAD OR THE MICHIGAN STATE POLICE ARE WELL KNOWN.

I.CANADIAN OFFICIALS ARE CONTEMPLATING IMPOSING GUIDELINES WHICH WOULD REQUIRE THAT THE DESIGN AND CONSTRUCTION OF NUCLEAR FACILITIES INCORPORATE FEATURES WHICH WOULD FACILITATE THE IMPLEMENTATION OF ADEQUATE SECURITY FORCES. CANADIAN THINKING HERE IS IN TERMS OF BOTH THE CONSTRUCTION OF INDIVIDUAL FACILITIES AND THE GROUPING AND LAYOUT OF MULTIPLE FACILITIES.

4. IN CLOSING MEETING, CANADIAN OFFICIALS EXPRESSED HOPE THAT ABOVE COMMENTS MIGHT BE HELPFUL AND THOUGHT-PROVOKING, AND INDICATED THEY WILL LOOK FORWARD TO DISCUSSING THESE MATTERS IN GREATER DEPTH WITH COUNTER-PART AMERICAN OFFICIALS LATER THIS SUMMER. PORTER

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